

STATE OF MICHIGAN
BEFORE THE MICHIGAN JUDICIAL TENURE COMMISSION

COMPLAINT AGAINST:

HON. FRANK R. DEL VERO

FORMAL COMPLAINT NO. 75

Judge, 53rd District Court
204 S. Highlander Way
Howell, MI 48833

COMPLAINT

The Michigan Judicial Tenure Commission (“Commission”) files this complaint against Hon. Frank R. Del Vero (“Respondent”), 53rd District Court Judge, City of Howell, Livingston County, Michigan. This action is taken pursuant to the authority of the Commission under Article 6, Section 30 of the Michigan Constitution of 1963, as amended and MCR 9.200 *et seq.* The filing of this Complaint has been authorized and directed by resolution of the Commission.

Respondent is, and at all material times was, a judge of the 53rd District Court in the City of Howell, Livingston County, Michigan. As a judge, he is subject to all the duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205. Respondent is charged with violating his judicial and professional duties as set forth in the following paragraphs.

1. Respondent at all relevant times has been a judge of the 53rd District Court, City of Howell, Livingston County, Michigan.

Count I
SEXUAL HARASSMENT

2. On January 11, 2001, Susan LeuVoy, Respondent's judicial secretary/court recorder, spoke to Respondent in chambers about obtaining a salary increase. In reply, Respondent stated words to the effect: "You know what you have to do if you want a raise," and made gestures with his hands indicating LeuVoy should perform oral sex on Respondent in order to obtain such an increase in salary. When asked by LeuVoy if he was serious about that statement, Respondent stated words to the effect that he was "dead serious."

3. LeuVoy had a prior similar experience with Respondent in approximately 1998 or 1999. Bucilla Carroll had been made court administrator for the 44th Circuit Court a short time earlier. When LeuVoy spoke to Respondent about a salary increase, Respondent replied to the effect "you know what Bucilla had to do to get a raise."

4. The conduct described in the above paragraphs, if true, constitutes:
- (a) Misconduct in office as defined by Michigan Constitution 1963, Article 6, §30 as amended, and MCR 9.205;
 - (b) Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution 1963, Article 6, §30 as amended, and MCR 9.205;
 - (c) Discourteous or disrespectful treatment of a person because of gender or other protected personal characteristic, in violation of MCR 9.205(B)(1)(d);
 - (d) Failure to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved as described in the Code of Judicial Conduct, Canon 1;

- (e) Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
- (f) Failure to respect and observe the law and to conduct oneself at all times in a manner that promotes public confidence in the integrity of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;
- (g) Failure to treat court employees fairly and respectfully, without regard to gender, in violation of the Code of Judicial Conduct, Canon 2B; and
- (h) Conduct violating MCR 9.104 in that it:
 - (1) Is prejudicial to the proper administration of justice, contrary to MCR 9.104(1);
 - (2) Exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
 - (3) Is contrary to ethics, honesty, and good morals, contrary to MCR 9.104(3); and
 - (4) Violates standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

Count II

INAPPROPRIATE COMMENTS REGARDING SEX

5. Since taking office as a judge of the 53rd District Court in 1987, Respondent made repeated comments about the appearance or apparel of women working at the court or appearing in court. These comments frequently had sexual

implications or connotations and were made in chambers, in hallways at the court and occasionally in the clerk's office.

6. Respondent made numerous comments about women's breasts, including using terms such as "hooters," "boobs," or "breasties." This included comments about the size of breasts of women who worked at the court, had business at the court or had appeared before Respondent when he performed wedding ceremonies.

7. In approximately 2000, Respondent used the phrase "onion butt" to describe the anatomy of a female court employee.

8. Over a period of years Respondent caused or at least joked about turning up air conditioning in his courtroom when arraignments were held so female defendants' nipples would be erect. Respondent referred to this process as "bimbos on parade."

9. On approximately January 26, 1999 and February 2, 1999, Respondent presided over the preliminary examination in *People v Mark Duane Amburgey*, Case No. 98-1523 FY, a criminal sexual conduct case where the husband had forced himself on his wife and forced her to have sex with another woman. In discussing the case in chambers, Respondent commented: "Sex all around and none for me."

10. In approximately 1995-1996, Respondent informed Susan LeuVoy of an incident involving law clerk Denise Ambrosiak. Ambrosiak had played a trick on her significant other by persuading him to disrobe, based on a promise of oral sex, while she went to the car and got a present he had purchased for her. Respondent spoke of "sex all around and none for me."

11. In 1999 or thereafter, Respondent informed Susan LeuVoy that his wife would not engage in oral sex.

12. In approximately the later 1990's, Respondent stated or speculated that 44th Circuit Court Administrator Bucilla Carroll obtained her position because she slept with the Hon. Stanley Latreille of that court. He did so on more than one occasion.

13. Prior to 1999, Respondent stated or speculated that 44th Circuit Court Friend of the Court Melissa Scharrer got her job by sleeping with the Hon. Stanley Latreille of that court.

14. On approximately June 11, 1993, Respondent presided over the preliminary examination in *People v Russell William Smith*, Case No. 93-0653FY, involving a police officer charged with sexually assaulting Amy Ronayne, an assistant prosecuting attorney. Respondent commented that it was a shame the police officer got into trouble over a woman who looked like that. Respondent also mimicked or acted out the victim's testimony.

15. 53rd District Court Administrator Mary Ellen Nygren complained to Respondent on occasion when Respondent made inappropriate sexual comments in the clerk's office. Prior to 1999, Ms. Nygren complained about inappropriate sexual comments concerning female court employees made by Respondent's law clerk, Patrick McMacken. Respondent told Ms. Nygren to mind her own business, that his staff was his staff, that she should leave them alone and that Respondent's staff was not her concern or business.

16. The conduct described in the above paragraphs, if true, constitutes:

- (a) Misconduct in office as defined by Michigan Constitution 1963, Article 6, §30 as amended, and MCR 9.205;
- (b) Conduct clearly prejudicial to the administration of justice as defined by the Michigan Constitution 1963, Article 6, §30 as amended, and MCR 9.205;

- (c) Discourteous or disrespectful treatment of a person because of gender or other protected personal characteristic, in violation of MCR 9.205(B)(1)(d);
- (d) Failure to observe high standards of conduct so that the integrity and independence of the judiciary may be preserved as described in the Code of Judicial Conduct, Canon 1;
- (e) Conduct involving impropriety and the appearance of impropriety, which erodes public confidence in the judiciary, contrary to the Code of Judicial Conduct, Canon 2A;
- (f) Failure to respect and observe the law and to conduct oneself at all times in a manner that promotes public confidence in the integrity of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B;
- (g) Failure to treat court employees fairly and respectfully, without regard to gender, in violation of the Code of Judicial Conduct, Canon 2B; and
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 - (2) Exposes the legal profession or courts to obloquy, contempt, censure or reproach, contrary to MCR 9.104(2);
 - (3) Is contrary to ethics, honesty, and good morals, contrary to MCR 9.104(3); and
 - (4) Violates standards or rules of professional responsibility adopted by the Supreme Court, contrary to MCR 9.104(4).

Pursuant to MCR 9.209(B), Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the

Commission within 14 days after service upon Respondent of the Complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all the facts and circumstances pertaining to Respondent's alleged misconduct. The willful concealment, misrepresentation, or failure to file such answer and disclosure shall be additional grounds for disciplinary action under the complaint.

JUDICIAL TENURE COMMISSION
OF THE STATE OF MICHIGAN
3034 W. Grand Boulevard, Suite 8-450
Detroit, MI 48202

By: _____
Paul J. Fischer (P 35454)
Examiner

Thomas L. Prowse (P19121)
Associate Examiner

Dated: March 24, 2004

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